

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/WRIT PETITION (PIL) NO. 63 of 2019

With

CIVIL APPLICATION (FOR DIRECTION) NO. 2 of 2020

In R/WRIT PETITION (PIL) NO. 63 of 2019

With

CIVIL APPLICATION (FOR JOINING PARTY) NO. 2 of 2021

In R/WRIT PETITION (PIL) NO. 63 of 2019

With

MISC. CIVIL APPLICATION (FOR REVIEW) NO. 2 of 2022

In R/WRIT PETITION (PIL) NO. 63 of 2019

With

CIVIL APPLICATION (FOR DIRECTION) NO. 3 of 2020

In R/WRIT PETITION (PIL) NO. 63 of 2019

With

CIVIL APPLICATION (FOR DIRECTION) NO. 3 of 2021

In R/WRIT PETITION (PIL) NO. 63 of 2019

With

MISC. CIVIL APPLICATION (FOR REVIEW) NO. 3 of 2022

In R/WRIT PETITION (PIL) NO. 63 of 2019

With

CIVIL APPLICATION (FOR DIRECTION) NO. 4 of 2020

In R/WRIT PETITION (PIL) NO. 63 of 2019

With

MISC. CIVIL APPLICATION (FOR REVIEW) NO. 4 of 2021

In R/WRIT PETITION (PIL) NO. 63 of 2019

With

CIVIL APPLICATION (FOR RECALL) NO. 5 of 2021

In R/WRIT PETITION (PIL) NO. 63 of 2019

With

CIVIL APPLICATION (FOR DIRECTION) NO. 5 of 2022

In R/WRIT PETITION (PIL) NO. 63 of 2019

With

CIVIL APPLICATION (FOR JOINING PARTY) NO. 6 of 2021

In R/WRIT PETITION (PIL) NO. 63 of 2019

With

CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO. 6 of 2022

In R/WRIT PETITION (PIL) NO. 63 of 2019

With

CIVIL APPLICATION (FOR JOINING PARTY) NO. 7 of 2021

In R/WRIT PETITION (PIL) NO. 63 of 2019

With

CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO. 7 of 2022

In R/WRIT PETITION (PIL) NO. 63 of 2019

With
MISC. CIVIL APPLICATION (FOR REVIEW) NO. 8 of 2021
In R/WRIT PETITION (PIL) NO. 63 of 2019
With
MISC. CIVIL APPLICATION (FOR RECALL) NO. 8 of 2022
In R/WRIT PETITION (PIL) NO. 63 of 2019
With
CIVIL APPLICATION (FOR RECALL) NO. 9 of 2021
In R/WRIT PETITION (PIL) NO. 63 of 2019
With
CIVIL APPLICATION (FOR FIXING DATE OF HEARING) NO. 9 of 2022
In R/WRIT PETITION (PIL) NO. 63 of 2019
With
CIVIL APPLICATION (FOR DIRECTION) NO. 10 of 2021
In R/WRIT PETITION (PIL) NO. 63 of 2019
With
CIVIL APPLICATION (FOR DIRECTION) NO. 10 of 2022
In R/WRIT PETITION (PIL) NO. 63 of 2019
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 11 of 2021
In R/WRIT PETITION (PIL) NO. 63 of 2019
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 12 of 2021
In R/WRIT PETITION (PIL) NO. 63 of 2019
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 13 of 2021
In R/WRIT PETITION (PIL) NO. 63 of 2019
With
R/SPECIAL CIVIL APPLICATION NO. 5829 of 2021
With
R/MISC. CIVIL APPLICATION NO. 608 of 2022
In
WRIT PETITION (PIL) NO. 63 of 2019
With
R/SPECIAL CIVIL APPLICATION NO. 7399 of 2019
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2019
In R/SPECIAL CIVIL APPLICATION NO. 7399 of 2019
With
CIVIL APPLICATION (FOR VACATING INTERIM RELIEF) NO. 1 of 2022
In R/SPECIAL CIVIL APPLICATION NO. 7399 of 2019
With
CIVIL APPLICATION (FOR DIRECTION) NO. 2 of 2019
In R/SPECIAL CIVIL APPLICATION NO. 7399 of 2019
With
R/SPECIAL CIVIL APPLICATION NO. 7404 of 2019
With

CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2019
In R/SPECIAL CIVIL APPLICATION NO. 7404 of 2019
With
CIVIL APPLICATION (FOR DIRECTION) NO. 2 of 2019
In R/SPECIAL CIVIL APPLICATION NO. 7404 of 2019
With
R/SPECIAL CIVIL APPLICATION NO. 8470 of 2021
With
R/MISC. CIVIL APPLICATION NO. 607 of 2022
In
WRIT PETITION (PIL) NO. 63 of 2019
With
R/SPECIAL CIVIL APPLICATION NO. 13196 of 2021
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2021
In R/SPECIAL CIVIL APPLICATION NO. 13196 of 2021
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 2 of 2021
In R/SPECIAL CIVIL APPLICATION NO. 13196 of 2021
With
R/SPECIAL CIVIL APPLICATION NO. 13278 of 2021
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2021
In R/SPECIAL CIVIL APPLICATION NO. 13278 of 2021
With
CIVIL APPLICATION (FOR INTERIM RELIEF) NO. 2 of 2021
In R/SPECIAL CIVIL APPLICATION NO. 13278 of 2021
With
R/SPECIAL CIVIL APPLICATION NO. 13280 of 2021
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 2 of 2021
In R/SPECIAL CIVIL APPLICATION NO. 13280 of 2021
With
R/SPECIAL CIVIL APPLICATION NO. 14476 of 2021
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2021
In R/SPECIAL CIVIL APPLICATION NO. 14476 of 2021
With
R/MISC. CIVIL APPLICATION NO. 594 of 2021
With
CIVIL APPLICATION (FOR DIRECTION) NO. 2 of 2021
In R/MISC. CIVIL APPLICATION NO. 594 of 2021

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VISHWAS SUDHANSHU BHAMBURKAR

Versus

UNION OF INDIA

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Appearance:

PARTY IN PERSON(5000) for the Applicant(s) No. 1
MR DEVANG VYAS(2794) for the Opponent(s) No. 1
MR DHAVAL G NANAVATI(2578) for the Opponent(s) No. 3
MR. BHADRISH S RAJU(6676) for the Opponent(s) No. 2
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**CORAM:HONOURABLE THE CHIEF JUSTICE MR. JUSTICE
ARAVIND KUMAR
and
HONOURABLE MR. JUSTICE ASHUTOSH J.
SHASTRI**

Date : 19/12/2022

COMMON ORAL ORDER

(PER : HONOURABLE THE CHIEF JUSTICE MR. JUSTICE ARAVIND KUMAR)

1. We have heard Mr. Vishwas Sudhanshu Bhamburkar for petitioner appearing in person and Mr. Kshitij Amin, learned Central Government Counsel appearing for respondent. We have perused the order dated 17.08.2021.

2. Mr. Kshitij Amin would submit that in the teeth of certain buildings in and around Surat Airport having been constructed contrary to the extant laws, the Director General of Civil Aviation in exercise of powers vested under Rule-6 has passed orders for demolition of certain portions of the buildings, which are not in-confirmatory with the extant Rules, keeping in mind the safety of the passengers who travel by Air. Undisputably, against said order an appeal under Rules-

6A of the Aircraft (Demolition of Obstructions Caused By Buildings and Trees, etc.) Rules, 1994 which is an alternative remedy is available.

3. The Co-ordinate Bench by aforesaid order dated 17.08.2021 had observed as under:-

“26. In the circumstances of the case, we curtail the period of filing of Appeals from 60 days to two weeks as admittedly the affected Builders have already been served with these Orders. So these Appeals may be filed on or before 31.08.2021 by the concerned parties, if they want to file Appeal against these Orders. For this purpose, besides the Orders served upon the parties, the DGCA is directed to issue public notice in the two English daily and at least one newspaper in vernacular Gujarati, Gujarat Samachar, local edition of Surat that such Appeals have to be filed on or before 31.08.2021 serving a copy of the Memo of Appeal in advance to the adjudicatory authority, namely, Joint Director General in his office. The DGCA may extend this period of two weeks for a further period of two weeks only on recording the reasons therefor in writing.

27. Besides the aforesaid Builders, we also permit the flat owners, the residents of the flats only those whose flats may come in the range of offending constructions and liable for demolition to join the lis before the

Director General through their concerned Builder. The individual flat owners will not have any such right to file individual separate Appeals against the said impugned Orders dated 06.08.2021, 09.08.2021 and 10.08.2021 and they may support the case of the concerned Builders before the said DGCA, Delhi."

4. It is in this background, writ-applicants of Special Civil Application No.13278 of 2021; Special Civil Application No.13280 of 2021 and Special Civil Application No.14476 of 2021 has been filed by the flat owners. Indisputably, the aggrieved persons have an alternate remedy as noted herein-above, However, it is contended by Mr. Mihir Thakore, learned senior counsel appearing for the writ-applicants that on account of flat owners not being made parties to the said orders, they had approached the learned Single Judge challenging the said order and parallelly, an interlocutory application has also been filed in this Writ Petition (PIL) No.63 of 2019 to implead themselves along with an application for modification/variation of the order dated 17.08.2021.

5. *Prima-facie*, we are of the view that aforesaid Special

Civil Applications are not maintainable in view of there being efficacious and alternative remedy available under law. In view of said Special Civil Applications having been filed before the learned Single Judge, we had called for the said Special Civil Applications to be tagged along with the present Writ Petition (PIL) No.63 of 2019 and accordingly, it has been listed. We are of the view that any order passed in the Special Civil Applications, either way may have a bearing on the right of the writ-applicants. Hence, we make it explicitly clear that Special Civil Applications would be heard along with the applications for impleading/ joining and the applications filed for recall/ modification of the order dated 17.08.2021. For want of time, we direct the Registry to list these matters on ***11.01.2023.***

Interim orders which are in operation in Special Civil Applications shall continue till next date of hearing.

(ARAVIND KUMAR,CJ)

(ASHUTOSH J. SHASTRI, J)

A. B. VAGHELA